

REMARKS

Amendments to claims 21 and 47 are for the purpose of clarifying what Applicant regards as the invention. No new matter has been added.

I. Claim rejections based on Besson and Keitaro

Claims 1-3, 6-13, and 39-56 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,950,493 (Besson) in view of JP 05-036368 (Keitaro).

Claims 1 and 39

Claim 1 recites a rotatable disk located within the cavity, the disk having a first target material and a second target material, *wherein the first target material corresponds with the first portion of the radiation filter, and the second target material corresponds with the second portion of the radiation filter* (Emphasis Added). Claim 39 recites that the first radiation filter is adapted to receive a first radiation generated using the first target material, and the second radiation filter is adapted to receive a second radiation generated using the second target material. Applicant agrees with the Examiner that Besson does not disclose or suggest a first target material corresponds with a first radiation filter / filter portion, and a second target material corresponds with a second radiation filter / filter portion. Keitaro also does not disclose or suggest the above limitations, and therefore fails to make up the deficiencies present in Besson. In particular, Keitaro merely discloses generating x-ray with a desired quality by providing two different focal planes 1, 2 on base material 3 (figures 1-3). There is nothing in Keitaro that discloses or suggests a first target material corresponds with a first radiation filter / filter portion, and a second target material corresponds with a second radiation filter / filter portion. Since both Besson and Keitaro do not disclose or suggest the above limitations, they cannot be combined to form the subject matter of claim 1. For at least the foregoing reasons, claim 1 and its dependent claims are believed allowable over Besson, Keitaro, and their combination.

According to the Office Action, it would have been allegedly obvious to modify Besson to employ a first target material corresponding with a first portion of a radiation filter, and a second target material corresponding with a second portion of a radiation filter “to enable

generation of a desired quality of radiation, as taught by Keitaro et al.” (p.3 of Office Action). Applicant respectfully disagrees. As discussed, there is nothing in Keitaro that teaches corresponding a first target material with a first radiation filter / filter portion and corresponding a second target material with a second radiation filter / filter portion as a way to generate a desired quality of radiation. Thus, Keitaro cannot be used to provide the alleged motivation for the above limitations.

Also, according to KSR International Co. v. Teleflex Inc. et al, No. 04-1350 (Supreme Court 2006), “One of the ways in which a patent’s subject matter can be proved obvious is by noting that there existed at the time of invention *a known problem* for which there was an obvious solution encompassed by the patent’s claims.” (Emphasis Added) In this case, there is nothing in the record indicating that the device of Besson has a known problem in the art that it cannot provide a desired quality of radiation, nor is there anything in the record indicating that the device of Keitaro can be used to solve such alleged known problem. Thus, Applicant respectfully submits that the prima facie case of the § 103 rejection has not been established. For these additional reasons, claims 1 and 39, and their respective dependent claims are allowable over Besson, Keitaro, and their combination.

II. Claim rejections based on Besson and Albert

Claims 21-25 and 27-34 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Besson in view of U.S. Patent No. 4,048,496 (Albert).

Claim 21 recites that the first target material forms a first ring, the second target material forms a second ring, the first x-ray radiation is generated by aiming electrons towards the first ring, and the second x-ray radiation is generated by deflecting the electrons such that they are aimed towards the second ring. Besson does not disclose or suggest these limitations. Albert also does not disclose or suggest the above limitations, and therefore, fails to make up the deficiencies present in Besson. For at least the foregoing reasons, claim 21 and its dependent claims are believed allowable over Besson, Albert, and their combination.

III. New claims 57-64

Applicant respectfully submits that new claims 57-64 are allowable over the references of record for at least the reason that none of the references discloses or suggests the subject matter of these claims.

CONCLUSION


If the Examiner has any questions or comments, please contact the undersigned at the number listed below.

To the extent that any arguments and disclaimers were presented to distinguish prior art, or for other reasons substantially related to patentability, during the prosecution of any and all parent and related application(s)/patent(s), Applicant(s) hereby explicitly retracts and rescinds any and all such arguments and disclaimers, and respectfully requests that the Examiner re-visit the prior art that such arguments and disclaimers were made to avoid.

The Commissioner is authorized to charge any fees due in connection with the filing of this document to Bingham McCutchen's Deposit Account No. 50-4047, referencing billing number **7036492002**. The Commissioner is authorized to credit any overpayment or to charge any underpayment to Bingham McCutchen's Deposit Account No. 50-4047, referencing billing number **7036492002**.

Respectfully submitted,

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